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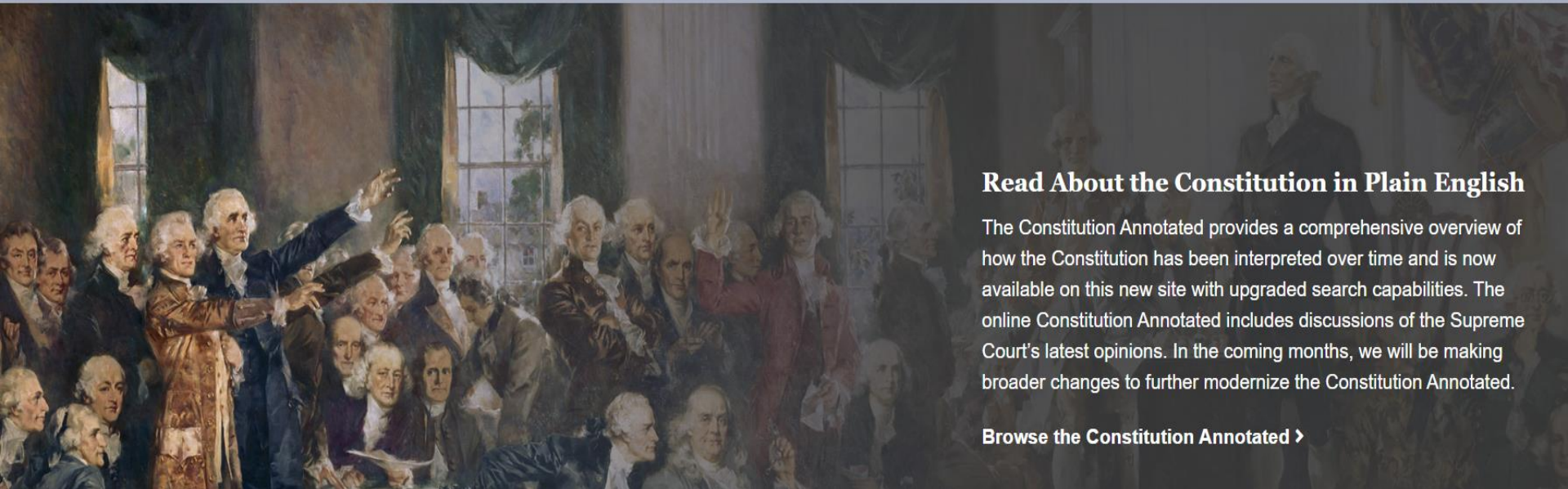
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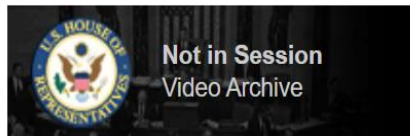
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116th Congress (2019-2020)

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Next Meeting: March 31, 2020 at 3:00 PM EDT

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Senate



Today: March 30, 2020
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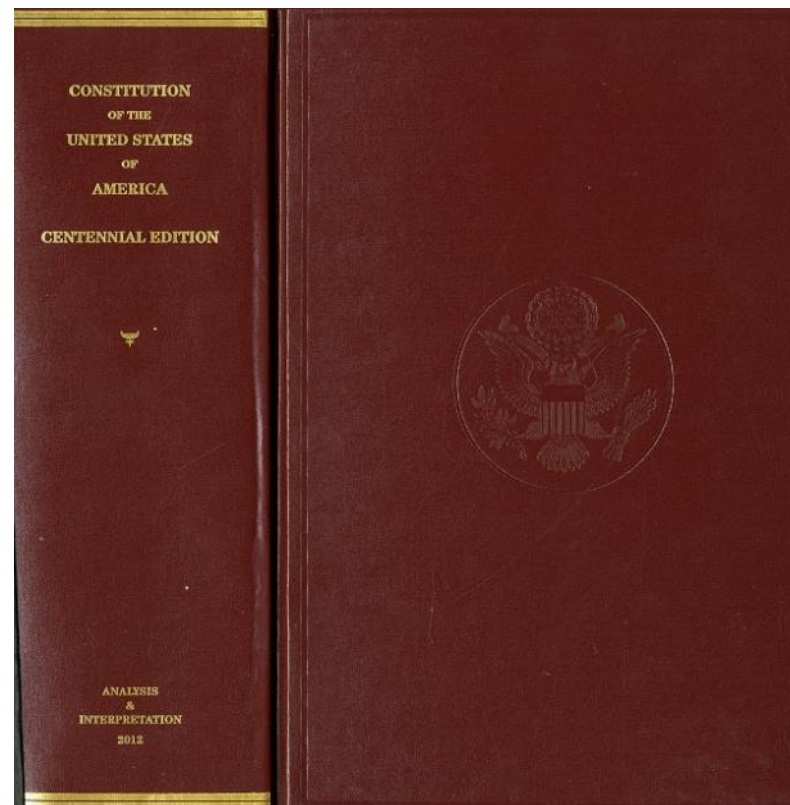
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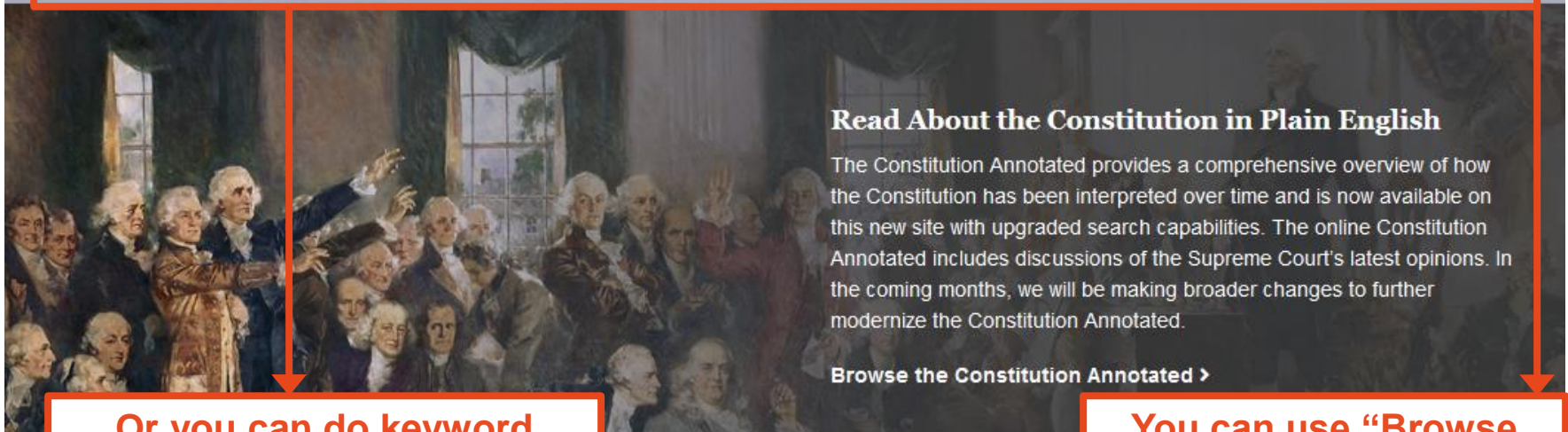
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1 [First Amendment](#)

Amdt1.2.1 [Freedom of Speech: Historical Background](#)

Freedom of Speech: Historical Background First Amendment: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the **freedom** of speech, . . .

Footnotes:

1 Annals of Cong. 434 (1789). Madison had also proposed language limiting the power of the states in a number of respects, including a guarantee of freedom of the **press**. Id. at 435. Although passed by the House, the amendment was defeated by the Senate. See Amendments to the Constitution, Bill of Rights and the States, *supra*.

freedom (17) press (41)

2. [First Amendment](#)

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Doctrine and Practice of Symbolic Speech: Overview First Amendment: Congress shall make no law

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Freedom of Speech: Historical Background First Amendment: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the **freedom** of speech, . . .

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2. First Amendment

Amdt1.2.2.3 Procedural Matters and Freedom of Speech: Prior Restraints

Procedural Matters and **Freedom** of Speech: Prior Restraints First Amendment: Congress shall make no

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1. First Amendment: Freedom of Speech: Historical Background

Freedom of Speech: Historical Background First Amendment: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, . . .

Footnotes:

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2. First Amendment

Amdt1.2.12.2.1 Doctrine and Practice of Symbolic Speech: Overview

Doctrine and Practice of Symbolic Speech: Overview First Amendment: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances. Very little expression is mere speech. If it is oral, it . . .

Footnotes:

. . . silent stand-in in a segregated public library. Speaking of speech and assembly, Justice Fortas said for the Court: As this Court has repeatedly stated, these rights are not confined to verbal expression. They embrace appropriate types of action which certainly include the right in a peaceable and orderly manner to protect by silent and reproachful presence, in a place where the

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Artl.S8.C3.1.2 **Commerce Among the Several States**

... state or to the making of contracts for personal services to be rendered in another state. Later decisions either have overturned or have undermined all of these holdings. The gathering of news by a **press** association and its transmission to client newspapers are interstate commerce. The activities of Group Health Association, Inc., which serves only its own members, are trade and capable of becoming . . .

Footnotes:

Associated **Press** v. United States, 326 U.S. 1 (1945).

freedom (3) press (19)

2. [Article I](#) | [Section 6](#) | [Clause 1](#)

Artl.S6.C1.1.3 **Speech and Debate Privilege**

... parliamentary supremacy. Behind these simple phrases lies a history of conflict between the Commons and the Tudor and Stuart monarchs during which successive monarchs utilized the criminal and civil law to suppress and intimidate critical legislators. Since the Glorious Revolution in Britain, and throughout United

Essay Page

freedom AND press



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ArtI.S8.C3.1.2 Commerce Among the Several States

Article I, Section 8, Clause 3:

[The Congress shall have Power . . .] To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes; . . .

The Commerce Clause serves a two-fold purpose: it is the direct source of the most important powers that the Federal Government exercises in peacetime, and, except for the due process and equal protection clauses of the Fourteenth Amendment, it is the most important limitation imposed by the Constitution on the exercise of state power. The latter, restrictive operation of the clause was long the more important one from the point of view of the constitutional lawyer. Of the approximately 1400 cases that reached the Supreme Court under the clause prior to 1900, the overwhelming proportion stemmed from state legislation.¹ The result was that, generally, the guiding lines in construction of the clause were initially laid down in the context of curbing state power rather than in that of its operation as a source of national power. The consequence of this historical progression was

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Introduction to the 2012 Centennial Edition The need for a comprehensive treatise on the Constitution was apparent to Congress from early in the 20th century. In 1911, the Senate Manual (a compilation . . .

2. Introduction

Intro.3 Historical Note on Formation of the Constitution

Historical Note on Formation of the Constitution In June 1774, the Virginia and Massachusetts assemblies independently proposed an intercolonial meeting of delegates from the several colonies to . . .

3. Article I | Section 1

Artl.S1.1.2 The Nature and Scope of Permissible Delegations

The Nature and Scope of Permissible Delegations Article I, Section 1: All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and . . .

Essay Text

Artl.S8.C3.1.2 Commerce Among the Several States

Article I, Section 8, Clause 3:

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Definition of Terms

Commerce

The etymology of the word “commerce”² carries the primary meaning of traffic, of transporting goods across state lines for sale. This possibly narrow constitutional conception was rejected by Chief Justice Marshall in *Gibbons v. Ogden*,³ which

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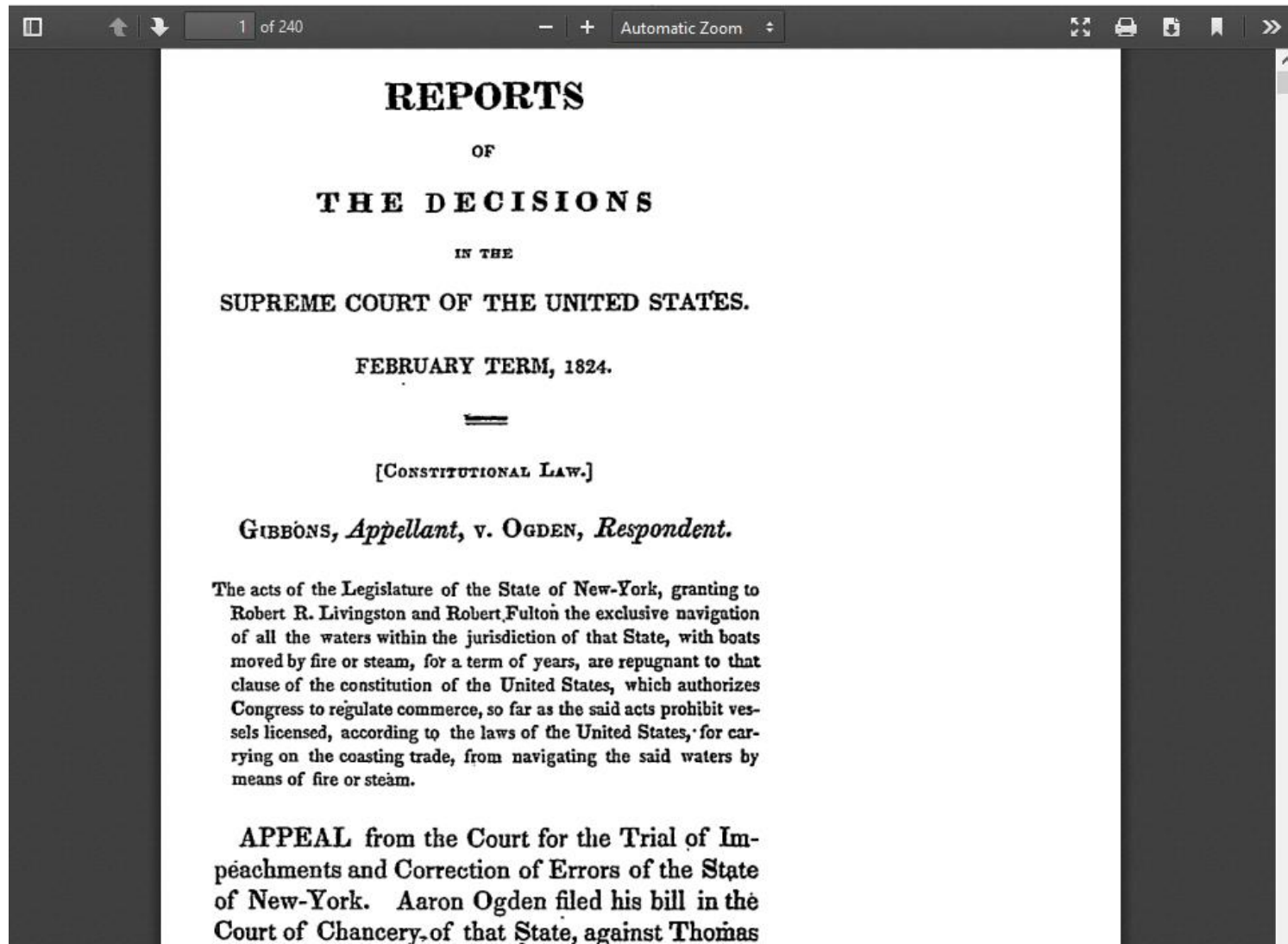
Essay Footnotes

the entire class.¹⁸⁰

Footnotes

1. [E. PRENTICE & J. EGAN, THE COMMERCE CLAUSE OF THE FEDERAL CONSTITUTION 14 \(1898\).](#)
2. [OED: "com– together, with, + merx, merci- merchandise, ware."](#)
3. [22 U.S. \(9 Wheat.\) 1 \(1824\)](#) [↗](#).
4. [Act of February 18, 1793, 1 Stat. 305, entitled "An Act for enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same."](#)
5. [Gibbons v. Ogden, 22 U.S. \(9 Wheat.\) 1, 189 \(1824\)](#) [↗](#).
6. [22 U.S. at 190-94.](#)
7. [22 U.S. at 193.](#)
8. [As we will see, however, in many later formulations the crossing of state lines is no longer the sine qua non; wholly intrastate transactions with substantial effects on interstate commerce may suffice.](#)
9. [E.g., United States v. Simpson, 252 U.S. 465 \(1920\)](#) [↗](#); [Caminetti v. United States, 242 U.S. 470 \(1917\)](#) [↗](#).
10. ["Not only, then, may transactions be commerce though non-commercial; they may be commerce though illegal and sporadic, and though they do not utilize common carriers or concern the flow of anything more tangible than electrons and information." United States v. South-Eastern Underwriters Ass'n, 322 U.S. 533, 549-50 \(1944\)](#) [↗](#).
11. [Kidd v. Pearson, 128 U.S. 1 \(1888\)](#) [↗](#); [Oliver Iron Co. v. Lord, 262 U.S. 172 \(1923\)](#) [↗](#); [United States v. E. C. Knight Co., 156 U.S. 1 \(1895\)](#) [↗](#); [see also Carter v. Carter Coal Co., 298 U.S. 238 \(1936\)](#) [↗](#).
12. [Paul v. Virginia, 75 U.S. \(8 Wall.\) 168 \(1869\)](#) [↗](#); [see also the cases to this effect cited in United States v. South-Eastern Underwriters Ass'n, 322 U.S. 533, 543-545, 567-568, 578 \(1944\)](#) [↗](#).
13. [Federal Baseball League v. National League of Professional Baseball Clubs, 259 U.S. 200 \(1922\)](#) [↗](#). When called on to reconsider its decision, the Court declined, noting that Congress had not seen fit to bring the business under the antitrust laws by legislation having prospective effect and

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REPORTS
OF
THE DECISIONS
IN THE
SUPREME COURT OF THE UNITED STATES.
FEBRUARY TERM, 1824.

[CONSTITUTIONAL LAW.]

GIBBONS, Appellant, v. OGDEN, Respondent.

The acts of the Legislature of the State of New-York, granting to Robert R. Livingston and Robert Fulton the exclusive navigation of all the waters within the jurisdiction of that State, with boats moved by fire or steam, for a term of years, are repugnant to that clause of the constitution of the United States, which authorizes Congress to regulate commerce, so far as the said acts prohibit vessels licensed, according to the laws of the United States, for carrying on the coasting trade, from navigating the said waters by means of fire or steam.

APPEAL from the Court for the Trial of Impeachments and Correction of Errors of the State of New-York. Aaron Ogden filed his bill in the Court of Chancery of that State, against Thomas

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Fourteenth Amendment

Section 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

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Amdt14.S1.1.1 Citizenship Clause

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[Amdt14.S1.2.1.1.1](#) Slaughter-House

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Amdt14.S1.3 Due Process and the States

Amdt14.S1.3.1 Due Process Clause and Incorporation

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136 S. Ct. 2292 (2016)	Amdt5.4.5.2.4.2.1, Unconstitutional Laws
136 S. Ct. 456 (2015)	Amdt6.3.2.1.1
136 S. Ct. 616 (2016)	Amdt6.3.1.2.1.1, Amdt8.2.2.2.1, Amdt8.2.2.2.3.1, Unconstitutional Laws
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1. [Article I](#) | [Section 8](#) | [Clause 3](#)

Artl.S8.C3.1.2 Commerce Among the Several States

Commerce Among the Several States Article I, Section 8, Clause 3: The Congress shall have Power . . . To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes; . . . The Commerce Clause serves a two-fold purpose: it is the direct source of the most important powers that the Federal Government exercises in peacetime, and, except for the due process and . . .

Footnotes:

E. Prentice & J. Egan, The Commerce Clause of the Federal Constitution 14 (1898).

Seminole (0) Tribe (1) of (736) Florida (0)

2. [Article II](#) | [Section 2](#) | [Clause 2](#)

ArtII.S2.C2.1 The Treaty Making Power

The Treaty Making Power Article II, Section 2, Clause 2: He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public . . .

Footnotes:

2 M. Farrand, The Records of the Federal Convention of 1787 183 (rev. ed. 1937).

Seminole (0) Tribe (2) of (574) Florida (0)

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Seminole Tribe of Florida v. Florida , 517 U.S. 44 (1996) ↗	1996	Pennsylvania v. Union Gas Co., 491 U.S. 1 (1989) ↗	1989
Taylor v. Louisiana, 419 U.S. 522 (1975) ↗	1975	Hoyt v. Florida , 368 U.S. 57 (1961) (in part) ↗	1961
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McLaughlin v. Florida , 379 U.S. 184 (1964) ↗	1964	Pace v. Alabama, 106 U.S. 583 (1883) ↗	1883

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2018	Dawson v. Steager, 139 S. Ct. 698 (2019)	Gorsuch, Neil	Tax Law	State and Local	W. Va. Code §11-21-12(c)(6): A West Virginia statute providing a tax exemption for the retirement benefits of certain state law enforcement employees but not for federal retirees who had comparable job duties.	Article VI	Supremacy Clause
2018	Iancu v. Brunetti, 139 S. Ct. 2294 (2019)	Kagan, Elena	Intellectual Property Law	Federal	15 U.S.C. § 1052(a): A provision of the Lanham Act prohibiting the registration of trademarks that "consist[] of or comprise[] immoral . . . or scandalous matter."	Fourth Amendment	Free Speech Clause
2018	Tennessee Wine and Spirits Retailers Association v. Thomas, 139 S. Ct. 2449	Alito, Samuel	Trade Law	State and Local	Tenn. Code Ann. § 57-3-204(b)(2)(A): Tennessee law creating 2-year residency requirement for alcohol retailers to obtain a license.	Article I, Section 8, Clause 3	Commerce Clause

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Kavanaugh, Brett M. (Associate Justice)	October 10, 2017	--	Trump, Donald J.	--
Gorsuch, Neil M. (Associate Justice)	April 10, 2017	--	Trump, Donald J.	--
Kagan, Elena (Associate Justice)	August 7, 2010	--	Obama, Barack H.	--
Sotomayor, Sonia (Associate Justice)	August 8, 2009	--	Obama, Barack H.	--
Alito, Samuel A. (Associate Justice)	January 31, 2006	--	Bush, George W.	McDonald v. City of Chicago, 561 U.S. 742 (2010)
Roberts, John G. (Chief Justice)	September 29, 2005	--	Bush, George W.	Nat'l Fed'n of Indep. Bus. v. Sebelius, 567 U.S. 519 (2012); Parents Involved in Community Schs. v. Seattle Sch. Dist. No. 1, 551 U.S. 701 (2007) ↗
Breyer, Stephen G. (Associate Justice)	August 3, 1994	--	Clinton, William J.	Easley v. Cromartie, 532 U.S. 234 (2001) ↗ ; McConnell v. FEC, 540 U.S. 93 (2003) ↗ ;

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Obtaining Witnesses in an Impeachment Trial: Compulsion, Executive Privilege, and the Courts	Executive Privilege; Impeachment; Impeachment Trial; Justiciability; Legislative Powers; Legislative Process; Nixon v. United States, 506 U.S. 224 (1993) ; Senate; Separation of Powers; Subpoena	Article I, Section 3, Clause 6	2020-01-21
Espinoza v. Montana and the Refusal to Provide Public Funds to Religious Schools	Espinoza v. Montana Dep't of Revenue, 435 P.3d 603 (Mont. 2018) ; Establishment Clause; Federalism; Free Exercise Clause; Freedom of Religion; Locke v. Davey, 540 U.S. 712 (2004) ; Supreme Court;	First Amendment	2020-01-21

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The Preamble

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We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Article I

[Article I Annotated](#)

Section 1

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2

The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an

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